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PRESS RELEASE BY SEN. STROM THURMOND (D-SC) ON ADDRESS BEFORE PEE DEE AREA CITIZENS COUNCILS AT OLANTA, SOUTH CAROLINA, OCT. 14, 1958.

Olanta, S. C., Oct. 14--Senator Strom Thurmond (D-SC) charged in a speech here tonight that the American people are being led by the U. S. Supreme Court in a "blissfully unwitting" march down the road to Socialism and enslavement. To reverse the "leftward" direction of march the Senator called for judicial limitation and constitutional government, giving as the best formula for success in the fight a "firm clinched fist rather than an open palm turned in the direction of Washington."

The South Carolina Democrat presented his criticism against the Justices and his suggestions for curbing them in a speech delivered before a rally of Pee Dee area Citizens Councils at Olanta.

Blaming the entire Federal Government for "our present plight," the Senator noted that the Court is setting the pace. He said the "nine puppets of the NAACP" have "either unwittingly or otherwise become the agency which guides the way to a fulfillment of the Marxist prophecy of our internal collapse."

"The Court has done this," he said, "not with just a single decision, but with a series of opinions which place a premium on being a member of a minority group or an adherent to a red-tinged philosophy. In this troubled hour the greatest enemy of the American people is the Supreme Court of the United States."

Senator Thurmond warned that the Court's disregard of the Constitution in the desegregation cases is only a part of the overall story. In citing the record of the Court's usurpation of power and decisions favoring pro-Communist causes and self-confessed criminals, the Senator called attention to constitutional law experts who have done likewise. He read excerpts from the report of the Conference of State Chief Justices which roundly scored the Court. He also quoted from Judge Learned Hand's recent lectures on constitutional law and from a speech recently delivered by Senator John W. Bricker of Ohio.

Senator Thurmond reviewed the "illegal ratification" of the Fourteenth Amendment and its "sordid history," urging that the Supreme Court be made to face the issue of its validity. Pointing out that the Court had dodged this issue in past cases, he stated:

"We should not be deluded into supposing that the Court would not contort an opinion contrary to the facts and law. Nevertheless, the issue should be pressed with vigor at the first opportunity, for the judgment of public opinion must yet be reckoned with by the Court."

The Senator summed up his formula for victory in the following words:

"In order to succeed in our momentous and crucial task, it will be necessary for everyone--office holder or not--to solicit and win support for the principles of constitutional government from patriotic Americans all over the country--east, west, south, and north--regardless of party affiliation.

"We must press the fight on all fronts. To do so, we must oppose programs which promote big government, excessive spending, and unnecessary and unconstitutional Government handouts which are designed to lull the people into a Socialist sleep. We must support such efforts as the promotion of internal security, States' Rights, freedom of initiative, a sound national economy, limited government, and the protection of society.

"The best formula for success I know is to fight the battle with a firm clinched fist rather than an open palm turned in the direction of Washington."

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ADDRESS BY SEN. STROM THURMOND (D-SC) BEFORE RALLY OF PEE DEE AREA
CITIZENS COUNCILS, OLANITA, S. C., OCTOBER 14, 1958.

The message which I shall bring to you tonight is not a cheerful one. Instead, it may be considered to be a bit on the gloomy side and fraught with despair, because we of the South are currently being subjected to a brutal persecution, which may increase in intensity and scope to the degree that minority elements above the Mason and Dixon line once again may attempt to send their carpet baggers and use their scalawags to rule the South in a second "Tragic Era."

We in the South face today the most important challenge and test in our glorious history. If we win this battle to preserve the sacred principles of constitutional government and individual liberty, then we will be able to rescue the rest of the people of this great country from their blissfully unwitting march down the road to Socialism, and, ultimately, Communism.

The issues for which we fought in the 1860's were no more crucial than the issues with which we are faced today. In the time of that valiant struggle, there was no equivalent of world Communism sitting on the sidelines awaiting the decay and downfall of the one nation which breathed strength and hope into the nostrils of the free world. No power on earth has ever executed with such finesse and brilliant success the internal overthrow of free governments as have the Soviets. The fight we face today is one for liberty for our country and much of the rest of the world, which -- thanks to the United States -- has been able to continue to fly the flag of liberty.

The blame for our present plight is on the Federal Government in its entirety, but especially so on the Supreme Court which has

either unwittingly or otherwise become the agency which guides the way to a fulfillment of the Marxist prophecy of our internal collapse. The Court has done this, not with just a single decision, but with a series of opinions which place a premium on being a member of a minority group or an adherent to a red-tinged philosophy. In this troubled hour the greatest enemy of the American people is the Supreme Court of the United States.

In a speech at Rock Hill on October 9, I outlined the reasons why in the Congress, Socialism is preferred. Tonight I shall share with you my views on the Supreme Court, and at a later date I plan to discuss publicly the part which the Executive Branch is playing in the conspiracy of collectivism.

Let me emphasize that I am not biased against the Court as an institution. I am biased only in favor of the Constitution of the United States, as written.

The Constitution is but a group of words written by groping mortals such as we. Its greatness, however, lies not in its verbiage, but in the governmental concepts which it expresses. Our difficulties lie in the fact that a small group of determined men seem hell-bent on subverting these concepts to a contrary ideology. I am not loath to be numbered among their critics.

Some of the greatest authorities on constitutional law have raised their voices in protest to the usurpation of power by the Court. Perhaps the most devastating voices raised in recent weeks have been those of the Chief Justices of 36 States.

At their recent annual meeting in Pasadena, California, the Chief Justices voted 36-8, with two abstaining and four being absent, to endorse a resolution and report on the recent decisions of the

United States Supreme Court. In what these eminent State jurists themselves professed to be a judiciously restrained report, one of the conclusions reached was:

"It has long been an American boast that we have a government of laws and not of men. We believe that any study of recent decisions of the Supreme Court will raise at least considerable doubt as to the validity of that boast."

The Chief Justices indicated their respect for and affirmation of the conclusions of the outstanding Federal jurist, Judge Learned Hand, who recently expressed extreme distaste for the idea of a third legislative chamber not elected by the people.

Of Judge Hand's recent lectures on constitutional law, Senator John W. Bricker of Ohio, the distinguished expert on constitutional law, last month made this statement:

"Like Judge Hand, I would rather suffer the mistakes and enjoy the excitement inherent in democratic processes than be ruled by nine guardians, no matter how wise and benevolent they might be."

A large number of the members of the Congress have come to realize the validity of the criticisms which have been leveled at the Court in the past few years. Illustrative of the feeling in the Congress was the narrow one-vote margin by which the Smith bill was defeated this year. This important legislation would have done much to check the Court's continual usurpation of the rights of the States.

Another bill, which would have overturned several recent Court decisions, was defeated in the Senate by a nine-vote margin. Had these two bills been brought to a vote earlier in the session instead of in the final few days, I am confident that we would have won the battle of halting the Court's race to oligarchy.

Originally conceived by the drafters of the Constitution to be the weakest of the three branches of government, the Court has come

to place itself above the Constitution in decision after decision. Writing in the 78th Federalist Papers, which were designed to sell the people on ratification of the Constitution, the arch proponent of a strong central government, Alexander Hamilton, made the following statement:

"This simple view of the matter...proves incontestably that the Judiciary is beyond comparison the weakest of three departments of power; that it can never attack with success either of the other two...It equally proves...the general liberty of the people can never be endangered from that quarter; I mean so long as the Judiciary remains truly distinct from both the Legislative and Executive..."

This idea that the Federal Judiciary would be the weakest branch of the Federal Government is further proved by the fact that it was even strongly debated in the constitutional convention that judicial functions should be left up to the States.

A striking example of the common conception of the Court's inherent political weakness is well illustrated by the fact that three South Carolinians turned down appointment as associate justices on the first Court under John Jay. John Rutledge rejected Washington's offer of appointment because he esteemed the power of a State judge over that of an associate justice of the United States Supreme Court. Edward Rutledge and Charles Cotesworth Pinckney likewise declined to accept appointments tendered to them by the President because they deemed it more important to serve as a member of the South Carolina Legislature.

The people of that day were no doubt impressed by the arguments propounded by the writers of the Federalist Papers in favor of ratification of the new Constitution. But, even the assurances given them from the 45th Federalist Papers, which discussed the division of sovereignty between the Union and the States, did not fully

satisfy them. One passage gave this assurance:

"The powers delegated by the Constitution to the Federal Government are few and defined. Those which are to remain in the State governments are numerous and indefinite."

These vigilantes of liberty demanded more concrete assurances, and as a result, they adopted the first ten Amendments, commonly known as the Bill of Rights. Included therein is the Tenth Amendment which provides:

"The powers not delegated to the United States by the Constitution, nor prohibited by it to the states, are reserved to the states respectively, or to the people."

This is the Amendment which the members of the Court have expunged from their version of the Constitution in their effort to force mixing of the races in our Southern public school systems. The word "education" is nowhere to be found in the Constitution -- no, not even in the illegal Fourteenth Amendment, upon which the Court seeks to rely for its desegregation decision.

The crux of the majority of the recent Supreme Court opinions lies in the flagrantly-strained construction of the alleged Fourteenth Amendment. Around this questionable provision revolves the center of our controversy. It behooves us to be aware of the origin of this tool of the Court's oppression.

In the course of their lengthy and cogent report, the State Chief Justices commented with regard to the high Court's recent departures from the words and spirit of the Fourteenth Amendment in the following manner:

"We are not alone in our view that the Court, in many cases arising under the Fourteenth Amendment, has assumed what seem to us primarily legislative powers ... We do not believe that either the framers of the original Constitution or the possibly somewhat less gifted

draftsmen of the Fourteenth Amendment ever contemplated that the Supreme Court would, or should, have the almost unlimited policy-making powers which it now exercises."

The events of 1867 and 1868 surrounding the proceeding on the supposed Fourteenth Amendment are undisputed, attested by official journals and the unanimous verdict of historians.

In 1867, less than two years after the cessation of fighting, the ten then unreconstructed Southern States had pulled themselves up by their bootstrings and re-established their State governments, for the most part, in the identical pattern of their pre-war form. In this year, these States elected Senators and Representatives to Congress.

In Washington, Congress was under the heel of the sick-minded despot, Thaddeus Stevens, who had opportunistically grasped power on Lincoln's death with a policy of hate. Stevens had already conceived the idea of the Fourteenth Amendment.

He well knew that were the Senators and Representatives of the ten Southern States seated in Congress, the two-thirds majority of both houses required to submit a constitutional amendment to the States could never be obtained. His revenge-depraved mind conceived, and his craftiness executed, the plot to refuse seats to Southern Congressmen and Senators under the constitutional provision allowing each house of Congress to determine the validity of the qualifications of its own members. That no such exaggeration of this provision was ever intended is emphatically proved by the terms of Article V of the Constitution, which provides in part that "no State, without its consent, shall be deprived of its equal suffrage in the Senate," and Article I, Section 2, which provides that "each State shall have at least one Representative."

Although this vicious scheme was successful in accomplishing the proposal of the Fourteenth Amendment to the States by the Congress, even this evil act was insufficient to accomplish its ratification. The wise political philosophers who drafted the Constitution did not give Congress the power to amend the Constitution, but provided that any amendment should be ratified by three-fourths of the States. The ten Southern States and four other States promptly rejected the proposed amendment. This constituted a rejection by more than one-fourth of the 37 States in the Union.

In a fit of rage, Thaddeus Stevens, conceived and obtained passage of that infamous blot on American history -- the Reconstruction Act. It was promptly vetoed by President Johnson who challenged its constitutionality and said:

"I submit to Congress whether this measure is not in its whole character, scope and object without precedent and without authority, in palpable conflict with the plainest provisions of the Constitution, and utterly destructive of those great principles of liberty and humanity for which our ancestors on both sides of the Atlantic have shed so much blood and expended so much treasure."

In a revengefully insane madness, the "rump" Congress overrode the veto.

The Act proclaimed that no legal State government existed in what the Act termed the "Rebel States." These objects of retribution were placed under martial law. Ratification of the Fourteenth Amendment was dictated as a condition of reinstatement to the status of statehood and representation in Congress. The Act inconsistently denied recognition to the States for the purpose of exercising any of their constitutional prerogatives, while at the same time presupposing their capacity to ratify a constitutional amendment as a State.

The rape of the South which followed under military rule accomplished the desired farce. Puppet or quisling State governments, established by the military, went through the form of ratifying the Amendment. In Louisiana, the Federal military commander had the audacity to preside over the Legislature to assure ratification.

It is interesting to note that California has not yet ratified the Amendment. Ohio and New Jersey, who ratified the Amendment, withdrew their ratification by formal legislative Act prior to the declaration of adoption by the Secretary of State. The Secretary refused to acknowledge the withdrawal.

The Supreme Court, which down through the decades, and even at present, claims to be the champion of individual liberty, has had three opportunities to strike down this vicious farce and each time has evaded the issue. The validity of the Fourteenth Amendment remains undecided in the Courts.

Such is the sordid history of the verbiage with which the Supreme Court seeks to foment its version of the "Law of the Land."

The Court should be forced to face the issue of the illegality of this unratified Amendment. We should not be deluded into supposing that the Court would not contort an opinion contrary to the facts and law. Nevertheless, the issue should be pressed with vigor at the first opportunity, for the judgment of public opinion must yet be reckoned with by the Court.

The Court showed recently how far it is willing to go in pushing its will on the people of the South, regardless of existing judicial procedure and the law, in its latest desegregation ruling. Casting to the winds its 1955 order leaving gradual desegregation to the local Federal judges, the Court ordered immediate integration at Little Rock.

In this opinion, the nine puppets of the NAACP broke at least three historic precedents in judicial procedure: First, they attempted to rule out private school plans when this case was not before the Court; second, they asserted that they made a certain statement in their 1954 decree which cannot be found there; and third, they affixed the signatures of three new Justices to the 1954 decision, although they were not present for the arguments and the decision in that case.

The Court's disregard of the Constitution in the desegregation cases is only a part of the overall story.

In other cases its usurpations have practically reduced sovereign States to mere political subdivisions of a Federal oligarchy.

It has arrogated unto itself powers rightfully belonging to the Congress.

It has usurped away powers of the Executive Branch.

It has thwarted efforts of both the Congress and the Executive Branch to insure the internal security of our country.

It has unleashed on society self-confessed rapists, murderers, and other criminals.

The record of the Court in siding with the Communist position on subversion and security cases is most astonishing and revolting. From 1919 until the Warren era, which began in 1953, the Court handed down 26 decisions against the Communist position and 19 in favor of the Reds. Since 1953, however, the Warren court has consented to hear 39 subversive cases, deciding 30 of these for the side favorable to Communism.

In one of these, the Court would not determine that the

Communist Party of the USA was a "tool of Moscow" because one of several witnesses had presented what the Court termed to be "tainted" testimony.

The record of some of the individual Justices is also quite revealing, especially when we of the South discover that leading the pro-Communist batting, percentage-wise, is a turncoat Southerner, Justice Hugo Black lately of Alabama -- my apologies to Alabama for mentioning it. In the 71 cases involving Communist issues in which he has participated, Justice Black sports an average of an even 1,000 per cent. He shares this dubious honor with Justices William Douglas and Felix Frankfurter.

Chief Justice Warren ranks next in the pro-Communist lineup with a score of 36-3, followed by Justice Brennan, one of the newest members of the Court who has a pro record of 18-2. Three other members of the Court have voted more against the Communist position than they have for it. It will remain to be seen whether the newest member will succumb to the views of the majority of his colleagues.

There are innumerable cases I can cite to illustrate what may otherwise appear to be a strong criticism of the Justices.

In *Service v. Dulles* and *Cole v. Young*, the Court restricted the President to firing only government security risks who are employed in sensitive positions. This leaves approximately 80 per cent of all government jobs open to Communist subversive activities, in direct conflict with ^{the} intent of Congress in passing the Smith Act.

In *Jencks v. U. S.*, the Court ordered the FBI to open its secret files to all defendants -- this particular one having been classified as a security risk. Rather than expose its secret files to scrutiny, the FBI was forced to drop charges against suspected subversives.

The Court ruled in a California case, *Yates v. U. S.*, that theoretical advocacy of violent overthrow of the government does not constitute sedition under the Smith Act. On the same day the Court proceeded to tell the Congress in the *Watkins* case that its investigating committees cannot require a witness to answer questions about his known Communist associates, even though the witness has not availed himself of the protection in the Fifth Amendment.

State laws in the internal security field have been overturned by the Court in the following cases: *Slochower v. New York Board of Education* -- holding that a teacher cannot be fired for taking the Fifth Amendment; *Sweezy v. New Hampshire* -- holding that the State Legislature could not authorize the Attorney General to question a college professor about his subversive activities; *Konigsberg v. State Bar of California* -- holding that it is unconstitutional to deny bar admission to an applicant who refused to say whether he was a Communist; and in perhaps the most famous internal security decision, *Commonwealth of Pennsylvania v. Steve Nelson*, the Court released a convicted subversive and overturned sedition laws in 42 States, even though the Federal law on the same subject specified that this should not be done.

These are only a few of the many subversive cases in which the Court has demonstrated its affinity for the Communist cause.

In the field of criminal law, the Court has been equally contemptuous of the security of society. It has continuously placed the rights of convicted and self-confessed criminals above the rights and protection of society as a whole. The *Mallory* case from the District of Columbia is a good illustration. In that case, the Court turned loose a self-confessed Negro rapist on a technicality

regarding his confession. Shortly thereafter he was charged with another serious crime.

A time-tried and honored provision of criminal procedure was struck down by the Court in *Moore v. Michigan*. Not only was another convicted Negro rapist and murderer freed, but this decision also precipitated a deluge of habeas corpus proceedings which may yet practically empty the State penal institutions of convicted criminals.

Another convicted murderer was granted freedom by the Court through the use of a strained and precedent-departing construction of the constitutional provision on double jeopardy. This was the case of *Green v. U. S.*

There are many more similar criminal law decisions, but time will not permit me to discuss all of them with you tonight.

In the law of labor relations, the Supreme Court has permitted the Federal Government to virtually pre-empt the entire field from State jurisdiction except where there is actual violence. A prime example of federal usurpation in this area is the decision in *Amalgamated Association v. the Wisconsin Employment Relations Board*. Here the Court overturned a State statute prohibiting strikes and lockouts in public utilities, thereby placing public necessities such as electricity, communications, and heat up to the uncertainties of labor-management relations.

In *Kern-Limerick v. Scurlock*, the State of Arkansas was denied the right to levy its State sales tax against contractors executing federal contracts. This case further diminished the ever-dwindling State tax sources, thereby further diluting the power of the States.

Every policyholder was affected by the turmoil created when the Supreme Court held in 1944 that insurance constitutes interstate

commerce. All laws regulating insurance were thus overthrown in the unjustifiable decision of U. S. v. Southeastern Underwriters Association.

The Court has stretched the Constitution's commerce clause to such magnitude that it experienced no difficulty in finding that vertical transportation by elevator is the same as horizontal movement across State lines. This decision was reached in Borden v. New York, a case where elevator operators in a New York City office building were held to be engaged in interstate commerce.

Representatives of Western States have raised their voices in protest against Court decisions which invalidate their State laws on water rights.

The Court even had the audacity to make light of the most fundamental concept of the English law system -- that body of law dealing with the right of testamentary disposition. In the Girard College case, which arose in Pennsylvania in 1957, the Justices changed a man's will which was written in 1832 by attaching a post mortem codicil in order to abolish segregation at a college. The Court used as the basis of its decision the Fourteenth Amendment, although the illegal ratification of that Amendment was not effected until 1868, 36 years after the will was drawn.

Throughout the history of this great country, Presidents from George Washington to Franklin D. Roosevelt, have warned against judicial tyranny. In 1820 President Jefferson expressed his admonition in these words:

"It is a very dangerous doctrine to consider the judges as the ultimate arbiters of all constitutional questions.... It is one which would place us under the despotism of an oligarchy.... (We must) check these unconstitutional invasions of State rights by the Federal judiciary."

The vital choice we face in this country today is whether we shall have judicial tyranny or judicial limitation. Judicial tyranny will surely sound the death-knell of constitutional government and individual liberty in America. Judicial limitation will bring a halt to the march toward Socialism and enslavement and will mark a return to the principles of constitutional government, which provide for a Federal Government of limited powers with all other powers reserved to the sovereign States or the people.

For those who cherish liberty and the Constitution the choice is an easy one. The battle, however, to limit the Court and stem the swelling tide for Socialism will not be so easy. Powerful minorities with their large bloc votes which provide the balance of power between the major parties and the almost limitless funds of the large labor unions will again be arrayed against us in the 86th Congress. In addition, the political prognosticators have predicted that the most radical candidates of both parties will win in the congressional elections next month.

In order to succeed in our momentous and crucial task, it will be necessary for everyone -- office holder or not -- to solicit and win support for the principles of constitutional government from patriotic Americans all over the country--east, west, south, and north--regardless of party affiliation.

We must press the fight on all fronts. To do so, we must oppose programs which promote big government, excessive spending, and unnecessary and unconstitutional government handouts which are designed to lull the people into a Socialist sleep. We must support such efforts as the promotion of internal security, States' Rights, freedom of initiative, a sound national economy, limited government,

and the protection of society.

The best formula for success I know is to fight the battle with a firm clenched fist rather than an open palm turned in the direction of Washington. I pledge to you that I shall continue my efforts for constitutional government with a firm resolve to win and a deep conviction that a fight for principle is never lost.

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